United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OPERATING ENGINEERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA, et al.,

Plaintiffs,

v.

A BETTER VALLEY CRANE, LLC, et al.,

Defendants.

Case No. 21-cv-07338-EMC

ORDER TO SHOW CAUSE

Docket No. 48

Plaintiffs are various employee benefit plans. They have filed an ERISA suit for, *inter alia*, unpaid contributions against three Defendants: (1) A Better Valley Crane, LLC; (2) Kim Baliel; and (3) Tim Baliel. Currently pending before the Court is defense counsel's motion to withdraw. Defendants were given notice of the hearing on the motion, but none made an appearance. Plaintiffs did not oppose the motion to withdraw.

According to defense counsel, counsel and Defendants have "reached an irreconcilable breakdown on how the action should proceed, including, but not limited to, with respect to discovery and defense of the action." Mot. at 3. Counsel represented that all Defendants have agreed to the withdrawal. This includes Better Valley (the entity defendant), even though counsel informed it that (1) under the District's Civil Local Rules, an entity defendant must appear through counsel, *see* Civ. L.R 3-9(b) (providing that "[a] corporation, unincorporated association, partnership or other such entity may appear only through a member of the bar of this Court"), and (2) if no counsel appears, a default judgment may be entered against it.

Because no Defendant made an appearance at the hearing, the Court stated at the hearing that it would issue this order to show cause. **Specifically, Defendants are ordered to show cause**

as to why defense counsel's motion to withdraw as counsel should not be granted. Defendants shall file a response by March 29, 2024. If no response is timely filed, then defense counsel's motion to withdraw shall automatically be deemed as granted, and defense counsel shall be relieved of its obligations other than ensuring that a copy of the client file is provided to Defendants. **Defendants shall then have until May 29, 2024, to locate new counsel *and* have new counsel make an appearance on their behalf in this case.** Defendants are reminded that the individual defendants may represent themselves, but Better Valley (the entity defendant) must be represented by counsel or it risks a default judgment being entered against it.

Defense counsel stated that it would provide the Court with the most current contact information it has for Defendants (including email addresses). In the meantime, the Court orders defense counsel to **immediately** serve a copy of this order on Defendants and to file a proof of service certifying such. Service shall include mail service and email service (assuming counsel has email addresses for Defendants).

IT IS SO ORDERED.

Dated: March 15, 2014

EDWARD M. CHEN
United States District Judge

United States District Court
Northern District of California